



## MEMORANDUM

**TO:** Superintendents

**FROM:** Tony Bennett

**DATE:** November 19, 2010

**SUBJECT:** Additional information regarding Department of Child Services proposed residential rate setting rule

There have been a number of questions regarding the impact of the DCS proposed rule to implement a new system for determining rates to be paid to residential providers. As a follow up to DOE's comments on the proposed rule (see SAMS 10/22/10), I spoke with DCS Director Jim Payne. Here are some of the key points of that conversation:

- Historically, facility providers have defined the rates charged. When DCS became the single payor for placements and services on 1/1/09 it froze rates at 2008 levels and determined that rates for such placements would be reduced effective 1/1/10. Litigation by IARCCA (the trade association for the providers) followed. DCS was enjoined from making such reductions on a contractual basis, and the federal district court encouraged DCS to consider a more public process such as rate setting by rule. As a result, DCS initiated rulemaking to establish a uniform method for setting rates across the state. DCS is in the process of promulgating these rules and expects to have them in effect in early 2011.
- The proposed rule "unbundles" rates for various services from the base for room and board. The cost of facility-provided educational services is one of those being unbundled as it is not an expense covered by federal IV-E funding.
- Providers are saying the DCS will no longer pay for educational and other unbundled services they provide in-house, but DCS advises this is not accurate. DCS payment for in-house educational services is not precluded by the proposed rule. DCS will simply pay for those services based on DCS determined reasonable costs and either send those charges for federal claiming through another system (such as Medicaid) or pay with 100% state dollars.
- DOE does not take issue with DCS rulemaking or the students' right to attend public school, but is concerned about impact on public schools if large numbers of students are presented for enrollment at one time. DOE is also concerned about the potential transfer tuition impact on school corporations in which the student may have legal settlement, but may not have been enrolled in that school for some time.
- DCS advises that providers are describing DOE's comments as an objection to DCS's proposed rate setting. DOE's comments do not object to the rate setting, but address practical considerations regarding potential impact on public schools. DCS does not intend this new method of rate setting to produce mass disruptions in placement because such would run counter to DCS's practice model which requires stable and effective placements.